

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

914 CIVIL APPLICATION NO. 13031 OF 2009

IN

FIRST APPEAL STAMP NO. 24806 OF 2009

THE STATE OF MAHARASHTRA & ANR.

VERSUS

BABAN MAHADEO AAGAV & ANR.

WITH

CIVIL APPLICATION NO. 13033 OF 2009

IN

FIRST APPEAL STAMP NO. 24762 OF 2009

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Mr. L.R.Thakur, A.G.P. for applicant – State.

Mr. D.R.Jaybhar, Advocate for R – 1 & 2.

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CORAM : K.K.SONAWANE, J.

DATE : 5th JULY, 2018

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ORAL ORDER :

1] Heard learned AGP for the applicant and learned counsel for the respondent nos. 1 and 2.

2] Perused the application. Learned AGP submits that due to official procedure to present an appeal, delay has been caused. He submits that delay is not deliberate and intentional but caused owing to administrative compliance. As such, he prayed to condone the delay.

3] Learned counsel for the respondent raised objection and submits that delay has not been properly explained and it would be unjust and improper to condone the delay.

4] I have heard the submission canvassed on behalf of both sides and perused the application as well as the impugned

judgment and award against which the applicant State is intending to file an appeal.

5] The matter pertains to land acquisition proceedings. The learned Reference Court partly allowed the application of the respondent filed under Section 18 of the Land Acquisition Act. The applicant State is intending to agitate the findings recorded by the learned Reference Court on the issue of market value arrived at by the learned Reference Court, which according to State, is exorbitant. It has been contended that after the impugned judgment and award of the Reference Court, the concerned Law Officer forwarded the proposal for filing an appeal against it to the concerned Law and Judiciary Department. The matter was scrutinized after efflux of colossal period by the concerned department and lateron, referred the proposal to the office of the Government Pleader High Court for further process. But, there were no relevant documents accompanied with the proposal for appeal. After procedural compliance, the appeal came to be filed at belated stage. The learned AGP fervidly contends that the delay was not intentional and deliberate but owing to compliance of official process. Obviously, the circumstances adumbrate that the concerned officials did not deal with the matter with due diligence and reasonable precautions but the matter came to be handled in a very casual and lethargic manner.

6] I am of the considered opinion that reasonable opportunity needs to be given to the applicant State to ventilate its grievances in the appellate forum. It is to be noted that the matter pertains to the enhancement of compensation amount under the Land Acquisition Act. The appellant is the Government Agency I.e. Acquiring Body and in view of public interest, it is imperative to extend latitude while dealing with

the condonation of delay, by adopting liberal and pragmatic approach. If the appeal/s of the appellant/State i.e. acquiring body is/are not allowed to be presented for further process on the ground of such default of delay, no person is individually affected but, ultimately, the public interest would be at stake. Therefore, I do not find any impediment to allow the applicant/State to present an appeal by condoning the delay. It would not cause any prejudice or injustice to the respondent. In contrast, it would sub-serve the interest of justice. Hence, the application for condonation of delay deserves to be allowed. In sequel, the application stands allowed in terms of prayer clause (B). Delay caused in filing appeal against the impugned judgment and award is hereby condoned.

7] Registry to take requisite steps for registration of appeal and list the matter for further process after eight weeks.

8] On registration of appeal, issue notice to the respondents. Mr. D.R.Jaybhar, learned counsel waives service of notice for respondents/claimant Nos. 1 and 2. After due compliance, list the appeal for admission in due course.

[K.K.SONAWANE]
JUDGE